

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

MACA.No. 626 of 2013

OP(MV)NO. 745/2007 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA

APPELLANT(S)/PETITIONER :

**BABY, S/O.VELAYUDHAN,
MOOTHARAN HOUSE, NANDIKKARA DESOM,
PARAPPOOKKARA VILLAGE, THRISSUR DISTRICT.**

**BY ADVS.SRI.V.BINOY RAM
SMT.SAJITHA P.SOMAN**

RESPONDENT(S)/RESPONDENTS :

*** 1. ANILAN N.V., S/O.VELAYUDHAN,
NJATUVETTY HOUSE, PANTHALLOOR DESOM,
NELLAYI VILLAGE, THRISSUR DISTRICT, PIN-680 305. (DELETED)**

*** RESPONDENT NO.1 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF
THE APPELLANT AS PER ORDER DATED 27.03.2015 IN I.A.NO.951/15.**

**2. V.V.SUDHAN,
VENNUKKARAN HOUSE, KANAKAMALA, THRISSUR-680 689.**

**3. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD., TANA,
IRINJALAKUDA-680 121.**

**R3 BY ADV. SMT.S.JAYASREE
BY ADV. SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

P.B.SURESH KUMAR, J.

= = = = =

M.A.C.A.No.626 of 2013.

= = = = =

Dated this the 20th day of May, 2015.

J U D G M E N T

The claimant in a petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The claimant is a fish merchant. He was aged 38 years at the time of accident. The accident took place on 11.4.2007. A sum of Rs.60,000/- was claimed in the petition by way of compensation. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled only to a sum of Rs.23,985/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy at the time of accident, the insurer was directed to

satisfy the award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. The claimant sustained various injuries in the accident including fracture of fourth and fifth meta carpal and fracture of nasal bone. Ext.A3 is the wound certificate produced by the claimant before the Tribunal. Ext.A5 is the discharge card issued to the claimant from St.James Hospital, Chalakudy. It is seen from Ext.A5 that the claimant was an inpatient in the said hospital for three days.

5. The Tribunal granted only a sum of Rs.3,000/- to the claimant towards loss of earnings for a period of one month. The accident took place in the year 2007. Since the claimant who is a fish merchant sustained injuries to his fingers, he may not be able to work at least for a period of two months. In the said circumstances, according to me, the Tribunal should have reckoned the monthly income of the claimant at Rs.5,000/- and granted

compensation to the claimant towards loss of earnings for a period of two months. The claimant is therefore, entitled to a further sum of Rs.7,000/- towards compensation on that head. Towards pain and sufferings, the claimant though claimed Rs.20,000/-, he was granted only a sum of Rs.10,000/-. In the nature of the injuries sustained by the claimant, according to me, he is entitled to a sum of Rs.5,000/- more towards compensation for pain and sufferings. Likewise, towards loss of amenities and enjoyments in life, the Tribunal granted only a sum of Rs.5,000/- to the claimant. Having regard to the totality of facts and circumstances of this case, I am of the view that the claimant is entitled to a further sum of Rs.5,000/- towards compensation for loss of amenities and enjoyments in life. Thus, the claimant is entitled to a further sum of Rs.17,000/- towards compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of

7.5% per annum. It is now settled that the claimant in a proceedings of this nature is entitled to interest for the compensation awarded at the rate of 9% per annum.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.17,000/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

**Sd/-
P.B.SURESH KUMAR,
JUDGE.**

Kvs/-

// true copy //-

PA TO JUDGE.